IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No.1183 of 1997
with
CRIMINAL APPEAL No.10 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

and

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? :

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

FIROZKHAN MAHEJULLAKHAN PATHAN
Versus
STATE OF GUJARAT

Appearance:
1. Criminal Appeal No. 1183 of 1997
MR KR RAVAL for the appellants.
Mr.K.T. Dave, ADDL. PUBLIC PROSECUTOR for the respondent.
2. Criminal Appeal No. 10 of 1998
Ms.BANNA S DUTTA for the appellant.
Mr.K.T. Dave, ADDITIONAL PUBLIC PROSECUTOR for the respondent.

CORAM : MR.JUSTICE KSHITIJ R.VYAS
and

MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 15/04/2002

COMMON ORAL JUDGEMENT (Per : MR.JUSTICE RAVI R.TRIPATHI)

Criminal Appeal No.1183 of 1997 is filed by two appellants, namely, Firozkhan Mahjullakan Pathan and Abdul Sattar Abdul Karim Kazi, original accused no.2 and 3 in Special Case No.9 of 1997, while Criminal Appeal No.10 of 1998 is filed by Abdulla Umar Fakir alias Abhlo Dadhi, original accused no.1 in the said Special Case No.9 of 1997.

2. These appeals filed under section 374(2) of the Code of Criminal Procedure, 1973, are directed against the judgement and order dated 24.10.1997 rendered by the learned Special Judge and Additional Sessions Judge, Jamnagar in Special Case No.9 of 1997 by which the appellants are convicted under section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to as "NDPS Act"), whereby the appellants are punished for 10 years rigorous imprisonment and with fine of Rs.1 lakh, in default simple imprisonment for one year. Accused no.1 was also convicted for the offences punishable under section 25 of the NDPS Act and was punished with rigorous imprisonment for 10 years and with fine of Rs.1 lakh, in default with simple imprisonment for one year. The learned Judge was pleased to order punishment consisting of imprisonment to commence simultaneously for accused no.1.

3. On 20.1.1997 when the complainant, PSI Mr.P.K. Jadeja was present with other Police staff members in Prohibition Branch at Jamnagar, he received an information from his informant that Firozkhan Pathan and Abdul Sattar Abdul Karim Kazi, residents of Ahmedabad have come to the residence of one Abdulla Umar alias Abhlo Dadhi residing at Jamnagar, Madina Pada Chaki Na Kabrastan for selling opium and they indulge in trade of the same. The said intimation was sent to the District Supdt. of Police, Jamnagar. As there was apprehension that if immediate raid is not carried out, these persons and the contraband charas were likely to be concealed. The information received from the informant was recorded in a confidential register of Prohibition Branch. This fact was intimated to P.I. Mr.B.M. Jadeja of LCB, Jamnagar. P.I. Mr.L.J. Merunjay of City `A' Division Police Station, Jamnagar. The complainant asked the Head Constable Kishorsinh Pandya to call two Panchas. He called Prakashsinh Dilipsinh Chauhan and Jitendra

Gambirsinh Gadhva. They were given to understand the information received and were also told about the raid to be carried out. A resolution under section 42 of NDPS Act was made. The same was intimated to the members of the raiding party. They took inter se search and no objectionable item was found. The Police personnel along with Panchas and necessary equipment like seal, wax, thread, needle, plastic bags, cloth bags, match box, etc. started in Govt. vehicle bearing registration No.GJ 10 T 157 from Pancheshwar Tower to reach "Oon-ni-Kandori" via Hawai Chowk, Khambhalia Gate, Kisan Chowk. They stopped the vehicle at Kisan Chowk and started on foot to reach the residence of Abdulla alias Abhlo Dadhi, near `Chaki Na Kabrastan'. On entering through `Deli' on the left hand side house of Husain Umar is situated and after which, on raiding the house of Abdulla @ Abhlo Dadhi, three persons were found sitting on a cot in a room next to `Osri'. In between these persons, in a plastic bag black brownish substance of cylindrical shape was found. Therefore, they were asked to remain seated as they were and on inquiry of name from one of those three persons, he informed that his name is Abdulla Umar alias Abhlo Dadhi, resident of Jamnagar, near `Chaki Na Kabrastan'. The second person disclosed his name to be Firojkhan Maidullakhan Pathan, resident of Shahpur, Ahmedabad. The third person disclosed his name as Abdul Sattar Karim Kazi, resident of Dariapur, Ahmedabad. The raiding party gave its introduction to them and also informed them that the Raiding Party had the information about charas. They were also asked, whether they wish to search the members of the Police/Raiding party. They were also informed of their right earlier that if they want the search can be carried out in presence of any gazetted officer or Magistrate. This was done in writing. As they declined for the same and as a gazetted officer was present in the raiding party, the substance lying on the cot in their possession, on smelling was found to be charas. On weighing the said substance by one, Mr.Sureshbhai Paramanand, who was called by the Police Constable, Jayendrasinh Jethwa, on instruction, it weighed 2 Kgs. and 800 grams. From the said substance two samples of 25 grams each were taken, one to be sent for analysis and the other one to be kept as a reserved sample. The remaining quantity of 2 Kgs. and 750 grams was kept in a plastic bag and was tied with a string and kept in a cloth bag. In plastic bag, slips containing signatures of Panchas and the Police party were placed. Thereafter, the cloth bag was stitched and after tying its upper portion with a thread, after placing slip containing the signatures of Panchas, it was sealed with a seal inscribing, "PSI TF, Jamnagar". The seal was affixed at

10 places. Similarly, sample charas was also kept in plastic bag. In both these plastic bags slips containing signature of Panchas and the Police were placed. Then, these plastic bags were kept in separate brown paper covers, which were then pasted with gum. Thereafter, slips containing signatures of Panchas and the Police were placed on those covers and seals at ten places were affixed on each cover. On personal search of Abdullah Umar nothing objectionable was found. On personal search of Firozkhan, cash of Rs.3300/- was found, while on personal search of Abdul Sattar, cash of Rs.3362/- was found. The contraband charas and cash was seized and seizure memo for the same was given to these persons separately. They were also informed that as an offence is committed by them under Sections 22, 25 & 29 of the NDPS Act by keeping contraband charas in their possession. They were arrested and an intimation about the arrest was given in writing to each one of them. A Panchnama was drawn which is at Exh.16. Thereafter, an F.I.R. was prepared before P.I., Mr.B.M. Jadeja, and was forwarded to PSO, City `A' Division Police Station, Jamnagar. The F.I.R., Panchnama, Muddamal, the accused and the copy of the resolution were sent along with the report made by the P.I. to the PSO. An intimation was also sent to the SDM, a copy of which is produced at exh.41. The investigation was handed over to one Mr.P.K. Jadeja, PSI, 'A' Division Police Station, Jamnagar, who recorded statements of the Police personnel, who were the members of the raiding party and the other persons. The muddamal was handed over to the Crime Writer, Head Constable and was sent to the Forensic Science Laboratory. On receipt of the report and completion of the investigation, the appellants were charge sheeted for the offences punishable under sections 22, 25 and 29 of the NDPS Act in Sessions Court, Jamnagar.

4. The learned Judge had framed charge at exh.6 against the appellants for the offences punishable under sections 22, 25 and 29 of the NDPS Act. Charge was read over and explained to the appellants who had pleaded not guilty to the same. Therefore, the prosecution had examined PW 1, exh.12, Prakashsinh Deepsinh, a Panch witness; PW 2, exh.26, Sunil Ravishankar Bhatt, a hotel owner; PW 3, exh.28, Sureshbhai Paramanand Kanbara, a person who was called to weigh the substance; PW 4, exh.30, Jayantibhai Arjanbhai Variya, a Head Constable, who was handed over the muddamal by the PSO; PW 5, exh.32, Ranvirsinh Agarsinh, who had taken sample muddamal to the Forensic Science Laboratory; PW 6, exh.33, Basir Ibrahim, who was examined to establish the possession of the premises of accused no.1; PW 7, exh.34,

Pratapsinh Motisinh Parmar, an employee of Jamnagar Municipal Corporation; PW 8, exh.36, PSI Mr.Parakramsinh Kanubhai Jadeja, who is the complainant in this case; PW9, exh.46, Ranjitsinh Nagbha, Head Constable, Buckle No.905, City `A' Division, Jamnagar; PW 10, exh.49, Bharatsinh Mangalsinh Jadeja, P.I., LCB Branch, Jamnagar; PW 11, exh.51, Ramabhai Kuberbhai Prajapati, who is the Investigating Officer in this case. PW 12, exh.60, Dr.Nirmal Jagdishkumar Dhanjibhai, an expert from Forensic Science Laboratory; PW 13, exh.66, Vasantrai Kanjibhai Gohel, who was Assistant Director, Regional Officer, Forensic Science Laboratory, Junagadh. The prosecution had also produced documentary evidence like exh.16, Panchnama; exh.37; the complaint; exh.38, a forwarding note of P.I. Mr.B.M. Jadeja of LCB, Jamnagar addressed to the Police Station In-charge, City `A' Division Police Station, Jamnagar handing over of the relevant papers like report made to the District Supdt. of Police; an entry made in the confidential register of Prohibition Branch; an intimation sent to the District Supdt. of Police about the entry made in the register; and intimation sent to the District Supdt. of Police about the arrest of the accused along with the copies of seizure memo, Chehra Nishan Patrak and the Panchnama, Muddamal, etc.; exh. 50, report to the Chief Judicial Magistrate (First Class), Jamnagar by PSI Mr. P.K. Jadeja; exh.52, the certificate of the authority addressed to the Chemical Analyser, Forensic Science Laboratory, Junagadh; Forensic Science Laboratory report, exh.53, 54 & 55 with forwarding letter from the Forensic Science Laboratory to PSI, City `A' Division Police station, exh.56. After recording the evidence of the prosecution witnesses was over, the learned Judge had explained to the appellant the circumstances appearing against them in the evidence of the prosecution witnesses and recorded their statement as required under section 313 of the Code of Criminal Procedure, 1973. In their statement the appellants had denied the case of the prosecution. The appellant in Criminal Appeal No.10 of 1998, the original accused no.1 did not submit anything except the bear denial of the case of the prosecution while appellant no.1 in Criminal Appeal No.1183 of 1997, i.e. original accused no.2 submitted that his father is doing business of selling wooden doors and windows and that he had come to Jamnagar, to purchase the scrap goods and after completing the work at 1.00 PM he went to the office of Pavan Travels where three Police personnel checked his luggage and did not find anything but still brought him to the Police Station. He also stated that he is a simple businessman and doing business of selling wooden doors and windows. He is not doing the business

of selling contraband charas. No case is registered against him and he is not in habit of even smoking, that the Police has filed false case against him. Appellant No.2 in Criminal Appeal No.1183 of 1997, accused no.3 stated that he had come to Jamnagar Court to attend the case filed against him under section 41(1)(d) of the Code of Criminal Procedure, 1973. When he was outside the gate of the Court the Police had caught him. Thereafter took him to Police Chowky where he was beaten. During interrogation, he told the Police that he does not know anything, still the Police filed a false case against him. He was doing rickshaw driving in Ahmedabad. None of the appellants led any evidence in support of their defence to prove that the case of the prosecution was false.

5. On appreciation of evidence adduced by the prosecution the learned Additional Sessions Judge, Jamnagar held that it is proved by the prosecution beyond reasonable doubt that the appellants were found in possession of 2 Kgs. and 800 Grams of opium and that they had committed offence punishable under section 22 of the NDPS Act; and that accused no.1, the appellant in Criminal Appeal No. 10 of 1998 has also committed offence under section 25 of the NDPS Act. The learned Judge concluded that it was proved by the prosecution that the mandatory provisions of the NDPS Act were complied with and the appellant could not satisfy the Court that any of the mandatory provisions of the NDPS Act was violated by the prosecution. After holding that the appellants had committed offence punishable under sections 22 and 25 of the NDPS Act the appellants were heard regarding punishment as required under section 235 (2) of the Code of Criminal Procedure. The appellant in Criminal Appeal No.10 of 1998, accused no.1 refused to make any submission and submitted that he may be punished as the Court may deem fit while appellant no.1, accused no.2 in Criminal Appeal No. 1183 of 1997 submitted that he is innocent and has not committed any offence. It is submitted by the learned advocate for accused no.2 that accused no.2 is having a family and small children. He is young and his financial condition is very weak. Therefore, he should be punished with minimum sentence under the law. On behalf of accused no.3, i.e. appellant in Criminal Appeal No.10 of 1998, it was submitted by the learned advocate that accused no.3 is driving rickshaw at Ahmedabad and was maintaining himself and that his financial condition is very weak. He is the only earning member in his family. He has small children. Therefore, he should be awarded minimum possible punishment with fine, by showing mercy. The

learned Judge thereafter passed the order of punishment as mentioned earlier by the judgement and order dated 24.10.1997 which has given rise to the present appeal.

6. We have considered the submissions advanced at the Bar by the learned advocate Mr.K.R. Raval for the appellants in Criminal Appeal No.1183 of 1997 and Ms.Banna Datta, learned advocate for the appellant in criminal Appeal No.10 of 1998. We have appreciated the whole evidence on record. The only contention raised by the learned counsel appearing for the appellants is that it cannot be said that the appellants were in possession of contraband charas. It was submitted that as the contraband charas was found to be lying on a cot, it cannot be said that it was in conscious possession of any of the three accused. The submission is not only devoid of any merit, but also implausible inasmuch as in residential premises of accused no.1, accused nos.2 and 3 were sitting on a cot and in the midst of all the three accused, a plastic bag was lying containing contraband charas weighing 2 Kgs. and 800 Grams. The presence of accused nos.2 and 3 in the city of Jamnagar is established beyond doubt, the factum of residence belonging to accused no.1 is also established beyond doubt in the face of these facts, the submission that as the charas was lying on a cot and was not in physical possession of any of the accused, they cannot be said to be in conscious possession. The argument neither appeals to us nor inspires to consider the same. Therefore, it is not possible for this Court to accept the same. If such a contention is accepted, the same will result into miscarriage of justice. Therefore, this contention is rejected.

From the evidence of Mr.P.K. Jadeja, PSI, City `B' Division Police Station, Jamnagar, it is clear that while he was serving as PSI in the Task Force at Jamnagar, on 20.1.1997 he received information from his informant that at the residence of Abdulla Umar Fakir alias Abhlo Dadhi, who is residing at Jamnagar, `Madina Pada Chaki Na Kabrastan', two persons, namely, Firojkhan Pathan and Abdul Sattar Kaji have come with contraband charas and have kept the same for illegal sale. On receipt of this information, it was felt that if an immediate raid is not carried out it is likely that the accused will escape. The information was taken down in writing. The DSP, Jamnagar was intimated about the same. It has come on record that the said information was taken down in Confidential Register of Prohibition Branch. The information was recorded on page No. 1 of the Register. Exh.39 is a true copy of it. Said officer, Mr.P.K.

Jadeja, PSI asked Head Constable, Kishor Pandya to call Panchas, who called the Panchas. Thereafter, with P.I. Mr.B.M. Jadeja of LCB, Jamnagar, P.I. Mr.L.J. Merunjay of City `A' Division Police Station, Jamnagar, was informed about the same and after drawing preliminary Panchnama and after having inter se search of the members of the raiding party, the Panchas, in a Govt. vehicle, started for the raid taking necessary material such as wax, thread, cloth, brown cover, etc. It is also on record in the form of deposition of Mr.P.K. Jadeja, PSI and Mr.B.M. Jadeja, P.I. of LCB Branch, Jamnagar that after starting from Pancheshwar Tower, they proceeded via Hawai Chowk, Khambhalia Gate and Kishan Chowk and reached `Oon Ni Kandori' where they stopped. From there they started walking towards east to reach the residence of Abdulla @ Abhalo Dadhi. On entering `Deli', on the left hand, there was house of Husein Umar, next to which was the house of Abdulla @ Abhalo Dadhi, where they found three persons sitting beyond `Osri' on a cot and in their midst, a plastic bag was lying containing black-brownish substance of round and cylindrical shape. They were asked to remain seated as it is. On inquiry, one of them disclosed their name to be Abdulla Umar alias Abhalo Dadhi, resident of Jamnagar `Madina Pada Chaki Na Kabrastan' and the other one disclosed his name as Firojkhan Medullakhan Pathan, resident of Shahpur, Ahmedabad; the third one gave his name as Abdul Sattar Abdul Karim, resident of Dariapur, Ahmedabad. They were intimated about the information the Police had about the charas. They were also enquired as to whether they will like to be searched in presence of any other gazetted officer or a Magistrate despite the fact that the Police party was having a gazetted officer with it. They declined for being searched in presence of any other gazetted officer or a Magistrate. The substance found in the plastic bag was found to be charas on smelling. Therefore, a man to weigh the substance was called. Head Constable, Jayantibhai Arjanbhai Variya, called Sureshbhai Paramanand Kankhara. He is examined as PW3 at Exh. 28. He has supported the case of the prosecution. He has stated that on 20.1.1997, at about 6.30 PM, a Policeman had come to call him. The Policeman disclosed his name to be Jayendrasinh Jethwa. He was brought to the place of Abhlo Dadhi, near `Madina Pada Chaki Na Kabrastan'. He brought with him weighing scale and measurements ranging from 5 grams to 2 Kgs. He also gave a certificate which is at Exh.29. The substance weighed 2 Kgs. and 800 grams. It was sealed after taking out two samples, each of 25 grams, one was taken for analysis and another was taken as a reserve sample. The remaining substance of 2 Kgs. and 750 grams was kept in a plastic

bag, which was tied with a thread and thereafter, was kept in a cloth bag. A slip bearing the signature of Panchas and the officers of the raiding party was kept in a plastic bag. The cloth bag was stitched. Its upper portion was tied and thereafter, a slip bearing signatures of Panchas and the raiding party officers was placed on the same and a seal bearing the inscription, "PSI TF" was applied. In all, ten seals were applied. Similarly, the samples, each of 25 grams, were kept in plastic bags in which slips bearing signatures of Panchas and that of raiding party officers were kept. These plastic bags were kept in brown paper covers which were closed with gum. On them, after putting slips bearing signatures of Panchas and the officers of raiding party, seals were applied. In all, seals at ten places on each cover were applied. Two samples were given, mark 'A' and 'B' and the remaining quantity was marked as mark 'C'. The accused were searched on their person in which nothing was found from accused no.1, while Rs.3300=00 were found from accused no.2 and Rs.3362=00 were found from accused no.3. Accused no.3 was also found in possession of a ticket of Pavan Travels dated 19.1.1997, seat no.18, 19 & 20. The name, 'Abdul' was written on ticket bearing no.47/00. The accused were given seizure memo individually in presence of the panchas. The accused were also served with the grounds of arrest individually, copies of which are produced at Exhs.17, 18 & 19. A copy of seizure memo is at Exh.20. After Panchnama was over, which is at Exh.16, a complaint was filed by Mr.Jadeja in presence of P.I. Mr.B.M. Jadeja, which is at Exh.37. A report was made to the Sub Divisional Magistrate, a copy of which is produced at Exh.41 by P.I., Mr. B.M. Jadeja. Thereafter, a detailed report was made to the Chief Judicial Magistrate, Jamnagar, a copy of which is produced at exh.50. Thereafter, with a forwarding letter, to the PSO, City `A' Division Police Station, for registering the offence, complaint, Panchnama, `Chehra Nishan Patrak' etc. were forwarded along with Muddamal and the accused. A copy of forwarding letter is at exh.38.

7. From perusal of the deposition of P.I., Mr.B.M. Jadeja, PSI, who reiterates the aforesaid contents, it is clear that the raiding party had complied with the mandatory provisions of the NDPS Act and after the F.I.R., Panchnama, Muddamal, etc. were forwarded to PSO, Ranjitsinh, Head Constable, PW 9, exh.46. He has deposed that he registered an offence at City `A' Division Police Station as C.R. No.29 of 1997 under Sections 22, 25 & 29 of the NDPS Act. The muddamal was deposited with the Crime Writer, Jayantilal, who is examined as PW 4,

exh.30. Thereafter, the sample of muddamal was forwarded to the Forensic Science Laboratory, through Ranvirsinh Agarsinh, Police Constable, who is examined as PW 5, exh.32. The investigation was handed over to Mr.Ramabhai Kuberbhai Prajapati, PSI, who is examined at PW 11, exh.51. Police Constable Ranvirsinh Agarsinh, PW5, exh.32 has stated that he has taken the Muddamal in sealed condition, which was a brown paper cover on which there were 10 seals of the task force, Jamnagar, and it was handed over at Forensic Science Laboratory at 4.00 PM and a receipt issued to that effect, in turn, was handed over to PSI Mr.Prajapati.

8. The prosecution has also examined one Sunil Ravishankar Bhatt, PW 2, exh.26, who is running a hotel in Jamnagar in the name of "Punit". A register is maintained at the hotel. The deponent produced that register in the Court to show the entry dated 20.1.1997 bearing no.937, wherein one Firoz Pathan, resident of Ahmedabad is shown to have been allotted Room No.109. It is also mentioned that there were three persons. Xerox copy of the relevant portion of the register is produced at exh.27. This shows that accused nos.2 and 3 (appellants in Criminal Appeal No.1183 of 1997) were in Jamnagar. The prosecution has also examined Bashir, PW 6, exh.33 to establish that he knows accused no.1, Abdul Umar alias Abhlo Dadhi and that he is residing on the land which is of the ownership of Kabrastan along with his mother and father. He is not paid any salary. Accused no.1 has obtained electricity connection. The deponent is not having an idea as to whether the electric meter is there or not. He knows that accused no.1 is married. He has also identified accused no.1 in the Court. The deponent was then declared to be hostile and was cross examined by the learned Additional Public Prosecutor. Even in the cross examination nothing is found which may dismantle the case of the prosecution. On the contrary in the cross examination of this witness, on behalf of accused no.3, it is disclosed that he has knowledge that accused no.1 is residing at a place which is in southern direction of Kabrastan; the door opens directly on the road. There is an Osri and beyond that there are two rooms. Witness has also deposed that it is true that in this house, sisters of Ablo Dadhi and his five children are residing. From this evidence, it is clear that the premises raided was that of accused no.1. As discussed above, from the evidence of the hotel owner, PW 2, it is clearly established that accused nos.2 and 3 were in Jamnagar. While from the evidence of PW 7, Pratapsinh M. Parmar, exh.34, who has produced a copy of the voters' list of ward No.17 of Jamnagar Municipal

Corporation, Part 4/6, wherein page 5 at 442, the name of `Fakir' is recorded, it is clear that the premises were that of accused no.1, Abdulla Umar alias Ablo Dadhi. Accused nos.2 and 3 were found in the said premises with contraband substance, charas. So far as the substance being charas, it is established from the evidence of PW 12, exh.60. Dr.Jagdish Kumar, who is an expert from Forensic Science Laboratory and from the evidence of PW 13, Exh.66, Shri Vasantrai, who was Assistant Director of Regional Office of the Forensic Science Laboratory at Junagadh. The reports of Forensic Science Laboratory are on the record.

9. No other contention except that of conscious possession of the contraband charas is advanced. Having perused the entire evidence, this Court is of the opinion that the learned trial Judge is right in holding that it was proved by the prosecution beyond reasonable doubt that the appellants were found in possession of 2 KGS. and 800 grams of charas in the residential premises of accused no.1, Abdulla Umar alias Abhlo Dadhi and at that time, accused nos.2 and 3 were present in the premises sitting on the same cot and have thus, committed an offence punishable under section 22 of the NDPS Act and that accused no.1 has also committed an offence under section 25 of NDPS Act. It was rightly pointed out by the learned Additional Public Prosecutor, Mr.K.T. Dave that the conviction recorded under section 22 ought to have been recorded under section 20 of IPC, as section 20 pertains to punishment for contravention in relation to cannabis plant, while section 22 relates contravention in relation to psychotropic substances. In the present case, the contraband substance, being charas, conviction ought to have been under Section 20. The same is accordingly corrected.

10. For the foregoing reasons, both the appeals fail. The conviction of the appellants in Criminal Appeal No.1183 of 1997 and Criminal Appeal No.10 of 1998 recorded under section 22 of the NDPS Act is to be read as under section 20 of the said Act and punishment imposed for commission of the said offence is maintained. Conviction of appellant in Criminal Appeal No.10 of 1998, accused no.1 under section 25 of the NDPS Act is also maintained along with punishment for the same. Muddamal is to be disposed of in terms of the directions given by the learned Judge in the impugned judgement.

(K.R. Vyas, J.)

(Ravi R. Tripathi, J.)

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